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Letter dated 12 November 2009 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to convey the attached letter dated 6 November 2009, which I received from the High Representative for Bosnia and Herzegovina (see annex), transmitting the thirty-sixth report on implementation of the Peace Agreement, covering the period from 1 May 2009 to 31 October 2009.

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

09-59706 (E) 161109

Please recycle

Annex

Letter dated 6 November 2009 from the High Representative for Bosnia and Herzegovina and European Union Special Representative addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995), by which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the thirty-sixth report (see enclosure). I would ask you kindly to distribute this report to the members of the Security Council for their consideration.

This is my second report to the Secretary-General since assuming the office of the High Representative for Bosnia and Herzegovina (and European Union Special Representative) on 26 March 2009. The present report covers the period from 1 May to 31 October 2009.

Should you or any Council member require any information beyond what is offered in the attached report or have any questions regarding its contents, I should be pleased to provide further information.

(*Signed*) Valentin **Inzko**

Enclosure

Thirty-sixth report of the High Representative for Bosnia and Herzegovina

1 May-31 October 2009

Summary

This report covers the period from 1 May to 31 October 2009. During the past six months Bosnia and Herzegovina has made little progress towards implementing its reform agenda. Of particular note are the ongoing attacks against State institutions, competencies and laws, mainly by the Government of the Republika Srpska, as well as continued challenges to the authority of the High Representative and the Steering Board of the Peace Implementation Council. Nationalist, anti-Dayton rhetoric challenging the sovereignty and constitutional order of Bosnia and Herzegovina also played a role, with the earlier effort by three political leaders to open a process of dialogue and compromise foundering.

As a consequence, only very limited progress has been made towards meeting the outstanding requirements set by the Steering Board of the Peace Implementation Council for transition from the Office of the High Representative to the European Union Special Representative as well as on the priorities and conditions which are required for progress on the Euro-Atlantic agenda. The high-level political discussions ("Butmir process") initiated by the European Union and the United States are welcome. They represent an exceptional opportunity for the country's leaders to seize and take the country forward. They have not yielded any concrete results during the reporting period, but are ongoing and have my full support.

Progress was limited in general, with the late exception of visa liberalization-related laws, where legislative activity eventually gained speed after summer (with some progress still required, especially related to the Bosnia and Herzegovina Criminal Code). This, together with the issuance of the first biometric passports in October, revived hopes that Bosnia and Herzegovina might not lag too far behind its neighbours in gaining admission to the "White Schengen" list.

The European Union military mission in Bosnia and Herzegovina (EUFOR) continues to contribute to a safe and secure environment in the country. EUFOR is a key reassurance factor in Bosnia and Herzegovina at a time when the political situation remains fragile and tense. For this reason, the mandate of EUFOR should be extended. I have also recommended its extension to the European Union and its member States.

I. Introduction

1. This is my second report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina — as well as that of European Union Special Representative to Bosnia and Herzegovina — on 26 March. In keeping with past practice, the present report assesses progress made towards attaining the goals outlined in previous reports, reviews developments during the reporting period, and provides my assessment of mandate implementation in the most important areas, not least the conditions that must be met by the authorities of Bosnia and Herzegovina before transition from the Office of the High Representative to the European Union Special Representative can be concluded. I have focused my efforts on facilitating progress in these areas, as well as meeting my primary responsibility of upholding the Dayton Peace Agreement. Regrettably, my efforts have largely been dedicated to addressing negative developments, in particular a number of attacks on the State institutions in a context of aggressive rhetoric.

2. The high-level political negotiations with the political leaders in Bosnia and Herzegovina which were initiated by the European Union (EU) and the United States in October are set to continue in November. My staff and I have fully supported this initiative as a means to facilitate and speed up key reforms related to the country's Euro-Atlantic perspective and institutional functionality, as well as the conditions which have been set for the closure of the Office of the High Representative.

3. The successful election of Bosnia and Herzegovina to a non-permanent seat on the Security Council in 2010-2012 represents a milestone in the country's foreign policy and an important recognition of the progress achieved in Bosnia and Herzegovina. However, the Security Council membership will also be a major challenge for the relevant Bosnia and Herzegovina authorities.

II. Political update

General political environment

4. Anti-Dayton action continued (specifically in relation to Annexes 2, 4, 9 and 10 of the General Framework Agreement for Peace) during the reporting period, in a context of increasingly divisive rhetoric. Of particular concern has been the challenge of the authorities in the Republika Srpska against the sovereignty and constitutional order of Bosnia and Herzegovina, as well as the authority of the Steering Board of the Peace Implementation Council and the High Representative. The Republika Srpska Government and National Assembly took actions that further undermined State competencies and progress on a number of EU partnership and visa-liberalization requirements. The lack of trust and of meaningful political dialogue between party leaders has also been of concern.

5. The lack of progress in addressing reforms and the difficult political climate resulted in a mostly negative progress report issued by the European Commission in mid-October. The Commission concluded that there has been only "very limited progress" in addressing key reforms required for further approximation towards the European Union. The progress report also concluded that the European Union would

not be able to consider an application for membership by Bosnia and Herzegovina before the Office of the High Representative has been closed.

6. The work and productivity of the Bosnia and Herzegovina Parliamentary Assembly remained affected by the negative political climate, strained political relations and the continuous impasse in the Council of Ministers. One of the key problems related to the work of the Bosnia and Herzegovina Parliamentary Assembly is the trend by which the political parties support draft legislation in the Council of Ministers, only then to oppose the same draft laws in one or both houses of the Parliament. This has been the case with a number of laws pertaining to visa liberalization; the European Partnership laws also failed owing to Republika Srpska opposition. Overall the performance of the Council of Ministers and the Bosnia and Herzegovina Parliamentary Assembly has been poor, with ethnic and entity agendas prevailing over the State's intentions to fulfil requirements for EU and NATO membership. Visa liberalization-related laws have (lately) become an exception, with progress achieved towards the end of the reporting period.

7. The reporting period began with the Prime Minister of Republika Srpska suggesting on 7 May that Serb soldiers serving in the small contingent of the Armed Forces of Bosnia and Herzegovina then taking part in a NATO Partnership for Peace disaster response exercise in Georgia should return home. Because the Republika Srpska Prime Minister is not in the Armed Forces chain of command and should not interfere in competencies exclusively belonging to the State, the call represented an anti-Dayton act and led to a public outcry. The Office of the High Representative condemned the incident, as did a number of other members of the Peace Implementation Council.

8. The Republika Srpska National Assembly further raised tensions on 14 May when it adopted conclusions that called into question the constitutional basis and legality of State competencies which were considered by the Republika Srpska Government and National Assembly as "transferred" from the Republika Srpska to the institutions of Bosnia and Herzegovina, including some of the responsibilities which the entities formally transferred to the State in line with the Constitution. The legitimacy of the international community's policies, decisions and presence in Bosnia and Herzegovina were also challenged in the said conclusions. The Republika Srpska National Assembly voted to initiate lawsuits challenging the constitutionality of such transfers before domestic and international courts and to hold the passage of future State budgets hostage to its own analysis of the performance of state institutions based on those alleged transferred competencies. The Republika Srpska alleges that only 3 of the 68 "transferred" competencies were not "stolen", seized or surrendered under false pretences, usually as a result of alleged intervention by the High Representative.

9. The Republika Srpska list of controversial "transferred" competencies included a number of responsibilities that are already expressly listed in the General Framework Agreement and thus in the Constitution from the very beginning as belonging to Bosnia and Herzegovina, including matters related to immigration and asylum, import and export of arms, and international and inter-entity criminal law enforcement. Certain matters contained in the Republika Srpska list have already been subject to challenges before the Constitutional Court of Bosnia and Herzegovina, which has decided that State-level legislation covering those matters is in line with the distribution of competencies provided for in the Constitution.

10. I wrote to the Speaker of the Republika Srpska National Assembly on 25 May demanding that the Assembly vote by 11 June to nullify its conclusions on transfers of constitutional competencies, thus preventing them from entering into force. In my letter I noted that the conclusions undermined the division of responsibilities between the State and entities established by the Dayton Constitution and subsequent decisions of the Bosnia and Herzegovina Constitutional Court. They were also, I noted, "misleading, erroneous and therefore unacceptable". The conclusions were nevertheless published on 15 June and entered into force the next day. As a result of their actions the Republika Srpska authorities left me with no option but to issue a decision on 20 June annulling the said conclusions of the Republika Srpska National Assembly.

11. On 19 and 20 May, Vice-President of the United States of America, Joseph Biden, and the European Union High Representative, Javier Solana, visited Bosnia and Herzegovina. Addressing the Parliamentary Assembly, the Vice-President expressed concern about the deteriorating political situation, noting that "for three years, we have seen a sharp and dangerous rise in nationalist rhetoric designed to play on people's fears, to stir up anger and resentment". He noted that State institutions required for EU and NATO membership were being "openly challenged and deliberately undermined", and that the reforms "that prompted the European Union and NATO to open their doors to the citizens of this country" were being rolled back. The Vice-President also noted that the Office of the High Representative enjoyed the "full support" of the United States and that Washington would not agree to the closure of the Office of the High Representative until all the objectives and conditions set by the Steering Board of the Peace Implementation Council had been met.

12. Difficulties in the Federation of Bosnia and Herzegovina continued. Following his re-election as President of the Party of Democratic Action (SDA) on 26 May at the party's fifth congress, Sulejman Tihic immediately moved to secure the resignation of the Prime Minister of the Federation, Nedzad Brankovic, who is facing criminal charges for abuse of office in the late 1990s. The Federation Finance Minister, Vjekoslav Bevanda, assumed most of the responsibilities of the Prime Minister while the parties argued over a replacement for Brankovic. The Federation Government faced a major challenge over its proposed "intervention" law, needed to rebalance its 2009 budget and fulfil International Monetary Fund (IMF) conditions to receive its share of the €1.2 billion, three-year standby arrangement negotiated on 5 May. Strikes, hunger strikes, road and border blockades, and threats of demonstrations by trade unionists, war veterans and farmers multiplied, until, on 18 June, some 7,000 war veterans, civilian war victims and non-war invalids demonstrated in front of the Federation Government building in Sarajevo. The caretaker government backed down as Minister Bevanda promised to remove a planned 10 per cent reduction in benefits.

13. The Federation House of Representatives confirmed the SDA replacement nominee as premier, Mustafa Mujezinovic, on 25 June. He has since tried to hold the line on meeting the entity's commitments to IMF, but has also faced demonstrations as well as a number of disputes with Croat ministers frustrated over being outvoted in government sessions. In short, the Federation Government remained disunited, weak and often dysfunctional.

14. Beset by fiscal woes that delay salary and pension payments and facing social unrest caused by IMF-required cuts, the Federation Government experienced a new crisis on 27 August. Having been outvoted by their fellow ministers on a proposed law that would alter the course of a planned motorway through Herzegovina, the four Croat ministers in the Government announced that they would take no further part in its work. The Federation Government resolved the standoff by appointing a working group to analyse the highway plans, but the responsible Minister, a Bosniak, later resigned and his position remains unfilled at the time of writing. Relations in the Federation were also shaken on 12 October over a hurriedly called Government session to decide the fate of the near-bankrupt, Federation-owned oil terminals at the port of Ploce in neighbouring Croatia. The Government decided — in the absence of Bosnian Croat ministers — both to appoint a new management and to provide a financial injection to the company.

15. The European Commission announced on 15 July that it was recommending visa requirements be lifted for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia as from 1 January 2010. Albania and Bosnia and Herzegovina were not included. This decision increased the level of popular frustration with politicians, but was also used to criticize the European Union over a perceived double standard. In the case of Bosnia and Herzegovina, the perception is that the citizens of Bosnia and Herzegovina would be left as "second class" citizens in a "ghetto". While the European Commission later acknowledged, in its progress report of October, that "progress has been made by Bosnia and Herzegovina with regard to visa policy and in the wider framework of the visa liberalization dialogue", the country at this stage still lags behind its neighbours.

16. One of the principal targets of criticism for the failure of Bosnia and Herzegovina to win access to the European Union's "white list" for visa-free travel was Bosnia and Herzegovina Security Minister and Deputy Chairman Tarik Sadovic. On 3 July the presidency of SDA ordered Sadovic to resign and, following his resistance, he was removed by a parliamentary dismissal procedure approved by both houses of parliament.

17. Relations between Serbs and Bosniaks in the Republika Srpska took a turn for the worse when the Bosniak caucus of the Republika Srpska Council of Peoples, the effective second chamber of the Republika Srpska National Assembly, decided on 13 July to suspend its participation in the Council of Peoples until the Republika Srpska Constitutional Court amends its own rules of procedure to preclude "outvoting" of non-Serbs in cases referred to it by the Council of Peoples. The spur was a ruling by the Constitutional Court the previous week, rejecting the Bosniaks' invocation of vital national interest against a Republika Srpska National Assembly law to delete the prefix "Bosnian" from the names of the towns Bosanski Brod and Bosanska Kostajnica. The Court ruled that the prefixes related to the State as a whole and not to Bosniaks specifically. There could, therefore, be no violation of their national interest. In response to the boycott, the Republika Srpska Prime Minister threatened to eject SDA from his governing coalition at entity level. He also threatened to eliminate non-Dayton institutions such as the Council of Peoples from the entity constitution. This dispute continued throughout the summer and early autumn.

18. The five-party coalition Government at State level, the Council of Ministers, was unable to meet or make decisions over much of the summer, because of

obstruction from various quarters. When it did manage to meet on 20 August, it failed to make appointments to the directorships of three important State agencies that have long been vacant or occupied by incumbents whose terms have expired: the Directorate for European Integration, the Indirect Taxation Authority and the Communications Regulatory Agency. The Chairman of the Council of Ministers, Nikola Spiric (SNSD) — with the support of the SNSD main board — continues to block the appointment of the SDA nominee, Sadik Ahmetovic, to the post of Minister of Security and Deputy Chairman of the Council of Ministers. The statutory time limit for this appointment lapsed on 12 September, and the Chairman of the Council of Ministers is therefore in breach of the law. Chairman Spiric and SNSD have said that they will hold this appointment hostage until appointments to the other positions have been made. In the meantime, however, the Civil Service Agency has substituted for the Government and appointed a new director of the Directorate for European Integration. This controversy has led to a serious deterioration of political relations at the State level as the delay in forwarding the nomination to the House of Representatives has greatly exceeded the legal deadline and prevents certain types of decisions from being made in the Council of Ministers.

19. The Republika Srpska Prime Minister became ever more outspoken during this period. His pronouncements included provocative remarks on issues such as wartime massacres, international judges and prosecutors (including my right to extend their mandate), the lack of legitimacy and permanence of Bosnia and Herzegovina, the option of calling for a public consultation/referendum in the Republika Srpska and my own decisions (qualifying them as "unconstitutional, illegal and criminal").

20. At the same time the Republika Srpska Premier presented his analysis of the supposed illegality of the Bonn powers and promised to sue me and all former High Representatives (a threat he first made in person at the meeting of the Peace Implementation Council Steering Board in June 2009), indicating that he plans not only to challenge new uses of the Bonn powers, but also to undo decisions of previous High Representatives.

21. The Republika Srpska Prime Minister's recent statements on wartime atrocities have generated anger and chagrin among Bosniaks and members of the international community. On 11 September he claimed that evidence existed that Bosniaks had staged the massacres in the Markale Market in Sarajevo in February 1994 and August 1995, as well as in Tuzla in May 1995. While many Serb leaders have repeated allegations in relation to Markale Market over the years, the comments in regard to the Tuzla Kapija massacre, in which more than 70 mostly young people were killed, represents a new departure. In all three cases, the International Tribunal for the former Yugoslavia and the War Crimes Chamber of the Bosnia and Herzegovina Court have confirmed convictions of Serbs as being responsible. As I noted in a statement issued with my OSCE and Council of Europe colleagues on 15 September, any attempt to change the established historical record of war crimes is unacceptable and inexcusable. When such misstatements come from an official in a position of high responsibility, an official who is obliged to uphold the Dayton Peace Agreement and cooperate with the Tribunal, they are particularly irresponsible, and undermine not only the institutions devoted to upholding the rule of law but also the credibility of the individual himself.

22. Facing an imminent move by the Republika Srpska authorities to illegally dismantle the State electricity transmission company Elektroprijenos Bosnia and Herzegovina, which is a public company jointly founded (in 2003) and jointly owned by the two entities as shareholders, and which had seriously deteriorated as a result of the continued boycott by the Republika Srpska of the Management Board, I issued on 18 September a decision aimed at preventing the collapse of the company and ensuring continuity of its operations. Indeed, several power outages in Sarajevo have been attributed to failures of equipment that have become dilapidated owing to major investments being blocked for the past two years by Republika Srpska-controlled officials in Elektroprijenos. The decision reaffirmed the principle of continuity of function under which the mandate of the general manager of Elektroprijenos continues until a replacement is appointed, except if otherwise provided by law.

23. My decisions of 18 September prompted the Republika Srpska Government to issue a series of conclusions which the National Assembly endorsed, while declaring all my decisions null and void, illegal and a violation of the Dayton Peace Agreement. It mandated lawsuits against all High Representatives but fell short of initiating further immediate action, although it did adopt conclusions threatening a walkout of Republika Srpska representatives from State institutions as well as a public consultation in the Republika Srpska in case of future decisions of the High Representative. The Republika Srpska Government also refused to publish my decisions in the Official Gazette, in violation of Republika Srpska law.

24. On 17 September the Republika Srpska Government divided KM 5 million among media outlets. This payment of direct subsidies has raised concerns about the independence of the media in the Republika Srpska and together, with OSCE, I will be monitoring the situation closely. My staff received complaints from opposition parties in the Republika Srpska alleging difficulties in terms of appropriate coverage of their statements and activities by Republika Srpska public broadcasters as well as private media known to be affiliated with the ruling party.

25. Continuing a process begun by my predecessors, on 21 August I lifted the bans on four former Serb Democratic Party (SDS) members who had been previously barred from holding public office and standing for elections.

26. In October, the European Union and the United States jointly initiated a high-level political dialogue ("Butmir process"), and the Swedish Foreign Minister, Carl Bildt, representing the EU Presidency, the United States Deputy State Secretary, James Steinberg, and the European Commissioner, Olli Rehn, jointly visited Bosnia and Herzegovina twice within a couple of weeks in order to bring seven key party leaders together. The aim was, through a "package approach", to break the political stalemate, relaunch a domestic dialogue and facilitate and accelerate reforms needed for the country's Euro-Atlantic perspective. This represented, in the light of the earlier visit of Messrs. Solana and Biden, the highest-level international initiative to move the country forward, and my staff and I gave my full support to it throughout the (ongoing) process (for more details on the content of the process see para. 28 below).

Constitutional reform

27. Domestic actors continued to be given the space to develop their own views on how to proceed, while I focused my efforts on facilitating the earliest possible

delivery by Bosnia and Herzegovina authorities of the "5 plus 2" agenda for transition from the Office of the High Representative to the European Union Special Representative. The response of the ruling coalition at State level was disappointing. Not only did the parties fail to build on the success of the first amendment (concerning Brcko District) to the Bosnia and Herzegovina Constitution adopted in March 2009, but they also failed to engage in any meaningful dialogue on constitutional reform. As a consequence, they continued to be unable to reach an agreement on launching a parliament-led constitutional reform process.

28. It was only when high-level visiting and local officials of the European Union and the United States brought party leaders together on 9, 20 and 21 October that substantial negotiations commenced (see para. 26 above). The fact that the international community was required to step in to get this process moving clearly confirms the need for the international community to play a substantial and hands-on role in facilitating constitutional reform. Together, the European Union and the United States proposed, through a "package approach" covering remaining areas of the "5 plus 2" agenda (apportionment of State and defence property) and constitutional changes (relating to functionality, efficiency, respect of human rights and related to the EU/NATO accession reform process), to reinitiate a domestic political dialogue and facilitate and accelerate the country's Euro-Atlantic perspective and institutional capacity. While not having led to concrete results during the reporting period, the process is ongoing at the time of writing. In its progress report issued in mid-October, the European Commission also highlighted the problems related to the Constitution, and underlined that the problem of blockages due to abuse of the entity voting rules "needs to be addressed", and that a stricter definition of the vital national clause in the Constitution is necessary. The Council of Europe's Venice Commission had drawn attention to these and other problems in a report issued in 2005.

III. European partnership requirements and visa liberalization

Visa liberalization

29. The European Commission provided Bosnia and Herzegovina with a "road map" for visa liberalization or abolition in June 2008. This identified the many actions the authorities must take if the country's citizens are to enjoy visa-free travel to and within the Schengen zone. The road map set out tasks in the fields of document security, illegal migration, public order and security, and external relations. Citing the country's inadequate progress in fulfilling the road map's requirements, the Commission decided in July that Bosnia and Herzegovina should not be included among the other western Balkan States (the former Yugoslav Republic of Macedonia, Montenegro and Serbia) whose Governments the European Commission had judged had done enough to merit a recommendation on the introduction of a visa-free regime early in 2010.

30. The outstanding requirements included the issuance of biometric passports; the adoption by the Bosnia and Herzegovina Parliamentary Assembly of both the Law on the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption and amendments to the Bosnia and Herzegovina Criminal Code (provisions on asset forfeiture, convictions for organized crime and trafficking in human beings); the appointment of a director and deputy directors of the Directorate

for the Coordination of Police Bodies of Bosnia and Herzegovina, a State-level police body which has yet to be established in accordance with the police reform laws of April 2008; appropriate and effective coordination mechanisms for the exchange of information between national agencies in the field of law enforcement and the abolition of the offices of the Federation and Republika Srpska ombudsmen in favour of a functional Bosnia and Herzegovina Ombudsman.

31. On 30 September, law enforcement officials signed an agreement on the electronic exchange of data between registers of police bodies and prosecutors' offices. On 1 October the Parliamentary Assembly rejected amendments to the Bosnia and Herzegovina Criminal Code, but on 14 October the Bosnia and Herzegovina House of Representatives adopted the Law on the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption. This law still awaits passage by the House of Peoples. Given that the issuance of biometric passports also commenced in October, there has been a revival of hopeful speculation that Bosnia and Herzegovina citizens might not lag too far behind their neighbours in gaining admission to the "White Schengen" list.

Update on the implementation of police restructuring

32. In its assessment in May 2009 of Bosnia and Herzegovina's implementation of the visa road map, the European Commission noted the delay in appointing the directors and deputy directors of the new bodies provided for in the police reform laws of April 2008. In July, the Bosnia and Herzegovina Council of Ministers appointed the director of the Agency for Education and Advanced Training. It also approved start-up budgets for that agency and for the forensics and support agencies during the reporting period.

33. On 22 July the Bosnia and Herzegovina House of Representatives confirmed the nominations to the Independent Board and the Public Complaints Board, two supervisory bodies provided for in the police reform laws. The House of Peoples followed suit on 23 July. The Bosnia and Herzegovina Parliamentary Assembly approved the rules of procedure for the Public Complaints Board on 19 October. The Independent Board adopted its proposed rule book on 28 September, but it has yet to be approved by the Bosnia and Herzegovina Parliamentary Assembly. The Independent Board is to be responsible for the still-outstanding procedure to select the director and two deputy directors of the Directorate for the Coordination of Police Bodies in Bosnia and Herzegovina, but it cannot proceed until its internal rules are finalized. The Bosnia and Herzegovina Parliamentary Assembly also enacted amendments to the Law on the State Investigation and Protection Agency in June and amendments to the Law on the State Border Police in July, as envisaged by the police reform laws of April 2008.

IV. Entrenching the rule of law

34. The reporting period has been marked by stagnation in the implementation of both the National War Crimes Prosecution Strategy and the National Justice Sector Reform Strategy. Moreover, blockage by the Republika Srpska of the extension requested by the Bosnia and Herzegovina Court President and the Bosnia and Herzegovina Chief Prosecutor of the mandates of the international judges and

prosecutors working in the State Court and Prosecutor's Office have served to highlight the continuing fragility of earlier justice sector reforms.

War Crimes Prosecution Strategy

35. The National War Crimes Prosecution Strategy adopted at the end of 2008 was hailed as the first comprehensive policy document for dealing with the daunting war crimes caseload facing Bosnia and Herzegovina. Although a Supervisory Board was set up to monitor implementation of the Strategy according to the time lines set out in the document, performance is lagging far behind those goals. So far, the only visible progress is that the Council of Ministers has adopted two required amendments to the Criminal Procedural Code. The Parliamentary Assembly has yet to enact them. Nor is there a central database, which means that exact information on war crimes cases remains unavailable. The lack of this basic element makes further implementation nearly impossible.

36. Having been publicly criticized for falling behind schedule — most notably by the President of the Court of Bosnia and Herzegovina — the Supervisory Board has asked for the help of the Office of the High Representative in speeding up data collection from lower level jurisdictions. My Office has thus written to all prosecutors' offices urging them to cooperate.

37. The initially promising talks in the spring between the Bosnia and Herzegovina Ministry of Justice and its Serbian counterpart in improving regional cooperation in processing war crimes cases have also failed to produce results. The September first-instance verdict of the Belgrade District Court sentencing a citizen of Bosnia and Herzegovina, Ilija Jurisic, to 12 years in prison for his alleged part in ordering an attack by Tuzla Civil Defence units on a retreating Yugoslav People's Army convoy in May 1992 has served both to inflame passions and to underscore the need to clarify jurisdictional responsibilities when it comes to war crimes cases.

National Justice Sector Reform Strategy

38. The State-wide Justice Sector Reform Strategy has also fared poorly during the reporting period. A second ministerial conference convened at the end of May to assess progress concluded that implementation rates had averaged less than 20 per cent over the previous five months and that between 40 and 50 per cent of projects had registered no progress at all. The conference conclusions noted that the various working groups would in the future meet only once between inter-ministerial conferences, but that two quarterly reports on implementation must be provided. A technical secretariat, comprising representatives of the State, entities, Brcko District and the High Judicial and Prosecutorial Council, was established to support coordination efforts according to an agreed plan of activities. The third ministerial conference is scheduled for December.

Other rule of law issues

39. My Office has fully supported the view of the highest State-level judicial and prosecutorial officials that the mandates of the international judges and prosecutors working in the war crimes and organized crime, economic crime and corruption chambers of the State Court and the Bosnia and Herzegovina Prosecutor's Office should be extended beyond December 2009. Although the Council of Ministers had endorsed an inter-party compromise that would keep the international judges and

prosecutors dealing with war crimes, no such extension for those engaged in combating organized crime, corruption and terrorism was acceptable to all parties, particularly those based in the Republika Srpska. The rejection late in September of proposed amendments to the Law on the Court of Bosnia and Herzegovina and the Law on the Prosecutor's Office of Bosnia and Herzegovina by the Serb members of the Bosnia and Herzegovina House of Peoples — which had the effect of nullifying all extensions of foreign judges and prosecutors — thus represents a serious blow to the ability of those institutions to function effectively and efficiently in future. This is all the more so because the Bosnia and Herzegovina Parliamentary Assembly had failed to provide the State Court and Prosecutor's Office with budgets in 2008 and 2009 that would enable them to hire Bosnia and Herzegovina nationals to replace the departing international judges and prosecutors, who have heretofore been paid by the international community.

40. The political controversy that developed around the extension of the international judges and prosecutors and, more generally, about the effectiveness and legitimacy of these State institutions was symptomatic of the intensified offensive mounted by the Republika Srpska authorities against past justice sector and State-building reforms during the reporting period. On the other hand, the Bosnia and Herzegovina Registry successfully completed the integration of all its services (maintenance, security, information technology and telecommunications) as wholly domestic operations. Maintaining the Registry, however, may pose a new challenge to international donors.

41. The Federation Constitutional Court is still short of three judges, the appointment procedure having been delayed by an ongoing struggle between the High Judicial and Prosecutorial Council and the entity President over the procedure of selection of the candidates. As was noted in the previous report, the Federation President had nominated Croat and Serb candidates who failed to pass in the Federation House of Peoples. The selection process has been reinitiated by the High Judicial and Prosecutorial Council, but has not yet returned to the Federation Presidency. In the meantime, the appointment of a Bosniak judge has also stalled after the entity President wrote to the High Judicial and Prosecutorial Council in June questioning the procedure. Although the High Council replied in July, the President has thus far failed to endorse a candidate. It is therefore obvious that the dispute between the Federation President and the High Judicial and Prosecutorial Council over their respective roles in the appointment of Federation Constitutional Court judges continues.

42. Laws imposed by a previous High Representative in December 2005 that, in line with recommendations of the High Judicial and Prosecutorial Council, regulate the salaries of judges and prosecutors at all levels in Bosnia and Herzegovina are now under threat in the Federation because of steps taken to make expenditure cuts required by IMF in return for the maintenance of the country's standby arrangement. This important reform, which has ensured the harmonization of salaries across the country and so encouraged judicial mobility and independence, could be undermined by the Federation Government's across-the-board pay cuts for public employees. Although the State and the Republika Srpska authorities have managed to decrease expenditures in line with IMF requirements without cutting judicial salaries, the Federation has thus far turned a deaf ear to expressions of concern by my Office and the High Judicial and Prosecutorial Council.

43. Finally, while the technical review of the project to build a State prison that had been requested by the Council of Europe Development Bank (CEB) and the delegation of the European Commission was completed in mid-September, some of the initially committed donations have been lost as a consequence of the delay. The Council of Ministers has, however, approved the loan application and forwarded it to CEB within the set deadline. CEB is expected to consider the application in November.

V. Cooperation with the International Tribunal

44. The International Tribunal for the Former Yugoslavia continues to assess that Bosnia and Herzegovina does cooperate with the Tribunal.

45. The trial of Radovan Karadzic which began on 26 October, as well as the early release of former Republika Srpska President Biljana Plavsic from prison in Sweden, stirred high emotions and continued to generate extensive press coverage and public interest in Bosnia and Herzegovina and abroad. On the other hand, Ratko Mladic remains at large. As the Tribunal seeks to complete its work in the shortest possible time it will be important to retain the capacity to deliver concrete results.

46. It is necessary to note that Radovan Stankovic remains at large, and that no serious measures have been taken to locate him. He was the first war crimes indictee of the Tribunal to have his case transferred to the Bosnia and Herzegovina Court for trial. Soon after his conviction, he escaped from the prison in Foca in May 2007. More positively, domestic and international efforts on behalf of the Tribunal have continued to apply pressure on Mladic's presumed support network, including several raids on close relatives and known supporters. Cooperation among the relevant agencies, including NATO, EUFOR, the Office of the High Representative, the Intelligence-Security Agency of Bosnia and Herzegovina and the Republika Srpska police, has been excellent, and will continue for as long as Mladic remains on the run.

VI. Reforming the economy

47. Economic indicators[1] demonstrate the impact of the global economic crisis on Bosnia and Herzegovina. Its foreign trade deficit in the period January-August is estimated at €2.2 billion, which is 29 per cent less than in the same period last year owing to a 22-per cent decrease in exports and a 26-per cent decrease in imports. In July, the registered unemployment rate was 41.8 per cent, while the real unemployment rate was estimated at 24.1 per cent. Compared to the same period last year, the average net salary in the period January-July increased by 8 per cent and amounted to €400, while the average pension increased by 6.4 per cent and amounted to €160. Foreign direct investments in the first half of 2009 dropped by 52.8 per cent compared to the same period in 2008. In the period January-August, there was also a decrease in revenues by 7.8 per cent in the Federation and by 12.9 per cent in the Republika Srpska. The banking sector appears stable but there is evidence of the Bosnia and Herzegovina-based banks' reduced access to capital, which is reflected in

[1] Data taken from the information on macroeconomic indicators for the period January-August 2009, prepared by the Bosnia and Herzegovina Directorate for Economic Planning.

their reduced potential for lending and high interest rates on deposits and particularly loans.

48. To mitigate the effects of the crisis, the Bosnia and Herzegovina Fiscal Council and IMF agreed on 5 May to a three-year standby arrangement worth €1.2 billion. Based on a positive assessment of the readiness of the State and entity authorities to cut expenditures through reforms and payment reductions, the arrangement was approved by the IMF Executive Board on 8 July, the first tranche of funds being released on 10 July. IMF is due to review Bosnia and Herzegovina's progress in meeting the agreed programme benchmarks in November, conditioning payment of second tranche on the outcome. The biggest challenge to ensuring a positive verdict is the Federation Government's questionable ability to implement benefit cuts on war veterans and other politically potent social categories.

49. As to the reform agenda, agreement within the Governing Board of the Indirect Taxation Authority facilitated the adoption of the Bosnia and Herzegovina Law on Excises and accompanying implementation legislation on 18 June, so ensuring, inter alia, a boost in annual indirect tax revenues. However, the Board disagrees on a manner of allocation of road toll tax revenue, as required under the new Bosnia and Herzegovina Law on Excises, thus blocking disbursement of €24 million, as accumulated on the Single Account so far. Moreover, there is still no agreement between the entities on new coefficients for the allocation of indirect tax revenues and, therefore, those agreed in the second quarter of 2008 continue to be applied.[2] This is because the Republika Srpska Minister of Finance continues to question the main element of the allocation formula and, thus, the credibility of the institution responsible for it: the Indirect Taxation Authority. This should be seen in the context of calls from the Republika Srpska for the abandonment of the Single Account, which is under the jurisdiction of the Indirect Taxation Authority, as well as in the context of the Republika Srpska Government's recent conclusions challenging the jurisdiction of that institution.[3] There has also been no agreement on the long overdue appointments of a new director of the Authority and expert members of its Governing Board.

50. While the Bosnia and Herzegovina Fiscal Council played an important role in bringing the negotiations with IMF to a successful conclusion, it once again failed to establish itself as a true coordination mechanism. The world recession has appeared on the agenda of the Fiscal Council more often as a matter for information than for action. Moreover, in the case of the assets received by Bosnia and Herzegovina as a consequence of the post-Yugoslav succession agreement, the

[2] Republika Srpska: 32.06 per cent; Federation of Bosnia and Herzegovina: 64.39 per cent; Brcko District: 3.55 per cent.

[3] On 16 October, the Republika Srpska Government ordered Republika Srpska members of the Governing Board of the Indirect Taxation Authority to note that the Authority had illegally and unconstitutionally usurped the competencies of the Republika Srpska Ministry of Trade and Tourism by regulating the trade of bunker fuel and other petroleum heating fuel derivatives. Board members from the Republika Srpska were instructed to demand modification of the Rule Book on the Application of the Bosnia and Herzegovina Law on Excises, thus de facto being instructed to act inconsistently with the Law itself, as it is the Bosnia and Herzegovina Law on Excises that defines bunker fuel and other petroleum heating fuel derivatives as being subject to excise tax. It is worth noting that the issues raised by the Republika Srpska Government were not raised during the recent parliamentary adoption of the Bosnia and Herzegovina Law on Excises nor prior to it.

Fiscal Council has provided an extralegal forum for dividing those assets between the entities, without a proper legal basis and any regard to the State and Brcko District. Following the failure of the responsible authorities to meet the deadline of 15 September set by the Peace Implementation Council Steering Board for resolving this issue,[4] I was obliged to act by issuing on 18 September a Decision Enacting the Law on the Distribution, Purpose and Use of Financial Assets Obtained under Annex C to the Agreement on Succession Issues. The Decision addresses the distribution of succession assets in a systematic manner, establishes exact allocation shares for the State, entities and Brcko, and sets a method of rebalancing the assets allocated in April in line with the allocation shares.

51. There was no progress during the reporting period on efforts to improve the business environment. The situation is especially worrying in the energy sector, where the operations of Elektroprijenos Bosnia and Herzegovina, the electricity-transmission company owned jointly by the entities, have continued to deteriorate as a result of both actions and obstructions on the part of the Republika Srpska authorities and their representatives in the firm. Owing to the absence of investment over the past two years, itself the result of the Republika Srpska boycott of the management bodies responsible for such matters, the electricity transmission grid is in increasingly poor shape and prone to interruptions and failures. Blackouts are becoming ever more common throughout the country.

52. On 16 September I learned of a Republika Srpska plan to carve out an extralegal, entity-specific transmission company from Elektroprijenos that was scheduled to go into effect upon the expiration of the (Bosnian Serb) general manager's term of office on 19 September. Such illegal action by the Republika Srpska authorities would have jeopardized all electricity transmission both in the country and between Bosnia and Herzegovina and its neighbours. On the other hand, the absence of a general manager, whose replacement or reappointment in accordance with the applicable law had likewise been blocked by the Republika Srpska boycott, would have brought all the company's operations to a halt. In order to provide for continuity of the company's business operations — and thus also to ensure undisturbed electricity transmission across Bosnia and Herzegovina — I acted on 18 September by issuing a decision ordering the Elektroprijenos Management Board to initiate the appointment of a new general manager without delay, obliging the incumbent to continue in office and perform all his lawful duties until a successor was appointed or he was removed, and providing for a mechanism to appoint an acting director during the interregnum in case of his resignation or incapacitation. This decision has served to prevent the collapse of the company and helped maintain electricity transmission.

53. In addition, to prevent unlawful altering of the status and operations of Elektroprijenos, the Brcko Supervisor issued on 19 September a Supervisory Order confirming that the Elektroprijenos property situated in the Brcko District will continue to belong only to Elektroprijenos in case of any action intended to have the

[4] Communiqué of 30 June 2009 in which the Peace Implementation Council Steering Board noted that the entities had not yet fulfilled their remaining obligations under the 1999 Awards of the Brcko Arbitral Tribunal to resolve, inter alia, the issue of the share of gold and other proceeds from Socialist Federal Republic of Yugoslavia assets due to the Brcko District of Bosnia and Herzegovina, and called upon the entities, and the State, where appropriate, to resolve these issues no later than 15 September 2009.

effect of dissolving, liquidating or incapacitating the company as a legal entity, unless that company ceases to exist as a legal person. In such a situation, the Elektroprijenos property in the Brcko District of Bosnia and Herzegovina would be automatically considered property of the Brcko District, in accordance with the Final Award, the Annex to the Final Award, and the Bosnia and Herzegovina Constitution.

54. On 24 September the Republika Srpska Government adopted, and on 1 October the Republika Srpska National Assembly endorsed, a set of conclusions contradicting my and the Brcko Supervisor's decisions. In parallel, the Republika Srpska Government continued to block a full restoration of the company's normal operations and, hence, to provide a pretext for creating its own electricity transmission system. Relevant international partners as well as my Office remain engaged and, at the end of the reporting period, the Prime Ministers of both entities had agreed to convey a shareholders' meeting early in November.

VII. Public administration reform

55. During the reporting period, the national Public Administration Reform Coordinator departed to become the director of the Directorate for European Integration. Overall, there was little progress in addressing public administration reform. The Public Administration Reform Strategy and the action plan have been only partially implemented (36 per cent as of July).

56. The severe delays in appointing directors and other key personnel to State-level institutions are also affecting the performance of the public administration. Several key appointments have been delayed for over a year and overall the appointments of more than 10 Directors are pending at the State level. The reason for these delays is principally the lack of agreement between the leading political parties on how to distribute the positions.

VIII. State property

57. Owing to the lack of demonstrable progress during the reporting period towards a sustainable State property apportionment between the State and other levels of government, which is one of the remaining objectives set by the Peace Implementation Council Steering Board to allow for the closure of the Office of the High Representative, the Office undertook a more proactive role in assisting the authorities by initiating an inventory of State property, which will underpin the necessary intergovernmental agreement settling the competing ownership claims and clarifying unresolved issues related to the former social ownership regime.

58. On 11 September, with the support of the Steering Board Ambassadors, I issued a decision formally committing my Office to the inventory process and deploying field teams to begin compiling the necessary property data. I initiated the process recognizing that, despite the welcome decision of the Bosnia and Herzegovina Council of Ministers in April establishing a working group to compile the inventory, the authorities took no action to complete the process within its 30 September 2009 deadline.

59. Since its initial deployment in September 2009, the State Property Inventory Team of the Office of the High Representative has completed the initial data gathering in 72 per cent of the 184 land registry and cadastre offices throughout the country. However, further progress has been hampered by the refusal of the Republika Srpska to release data from its cadastral offices. Efforts to gain access to this data or to identify suitable alternative data sources are ongoing.

60. Perhaps more problematic are the threats by the Republika Srpska to unilaterally overturn the High Representative's temporary prohibition on State property transfers, which was initially introduced in 2005 as three laws designed to maintain the status quo until the authorities reach a sustainable agreement that ures that the State, and all subdivisions, own the property needed for the exercise of their respective constitutional and legal responsibilities. Such a unilateral revocation would undermine the authority of the Peace Implementation Council and further enflame pre-election tensions.

61. An acceptable and sustainable resolution to State property issues remains a requirement for the Bosnia and Herzegovina authorities to meet before the transition from the Office of the High Representative to a stand-alone office of the European Union Special Representative can take place.

IX. Defence reform

62. Bosnia and Herzegovina continued to implement the NATO Partnership for Peace although the overall political environment has hindered progress. Reforms have proceeded, but delays or stoppages continued to be encountered as the decision-making process moved from the technical to the political level.

63. Nevertheless, on 2 October the Chairman of the Bosnia and Herzegovina Presidency, Zeljko Komsic, visited NATO Headquarters to submit the country's official application for a Membership Action Plan, the penultimate step designed to prepare candidate States for full NATO membership. The NATO Secretary General welcomed Bosnia and Herzegovina's Euro-Atlantic aspirations, but also stressed that Bosnia and Herzegovina needed to continue and, indeed, step up its reform work, especially in regard to its democratic institutions and constitutional arrangements, and not only in the defence realm.

64. On defence property, despite earlier Republika Srpska Government assurances to NATO that it would instruct Republika Srpska cadastre offices to cooperate with the requests of the Bosnia and Herzegovina Ministry of Defence for documentation on property necessary for any agreement transferring ownership of prospective defence property to the Bosnia and Herzegovina level, no such instruction was issued. In fact, at the time of reporting, Republika Srpska cadastre offices were continuing to deny access to relevant public property records in line with Republika Srpska Government orders. While the issue of inventory data should be an administrative matter, it was becoming apparent that political controversies relating to an overall solution to the bigger question of State property in general were impacting upon the more limited issue of defence property. Collection of all property documents remained one of the basic preconditions for preparing an annex to the Agreement on immovable defence property.

65. The Bosnia and Herzegovina Ministry of Defence submitted its proposal for the disposal of established surpluses of movable defence property to the Bosnia and Herzegovina Presidency early in October. The destruction list was based on the inspection of 11 ammunition sites (10 sites remained to be inspected). The Presidency adopted the Ministry of Defence's proposal on 7 October but, regrettably, the vast majority of items were earmarked for sale rather than destruction. This was despite repeated international and bilateral appeals and declared commitments to pay for the destruction of surplus arms and ammunition, as the equipment in question is either outdated or of dubious quality.

66. An acceptable and sustainable resolution to both the immovable and movable defence property issues remains a requirement for the Bosnia and Herzegovina authorities to meet before the transition from the Office of the High Representative to a stand-alone office of the European Union Special Representative can take place.

X. Intelligence reform

67. The leadership of the Intelligence-Security Agency of Bosnia and Herzegovina continued its efforts to consolidate the reformed agency. At the European Commission's request, the Council of Ministers established a working group tasked with harmonizing the Law on Secret Data Protection with European Union legislation.

68. Through various conferences across Bosnia and Herzegovina, the Bosnia and Herzegovina Parliamentary Committee for Oversight of the Intelligence-Security Agency of Bosnia and Herzegovina continued to promote and refine the functioning of the oversight system by encouraging links between and among civil society, academics, the media and sectoral stakeholders. The Committee also initiated a working party charged with drafting an overarching Law on Parliamentary Oversight — in line with the Law on the Intelligence-Security Agency of Bosnia and Herzegovina and requiring the harmonization of Bosnia and Herzegovina's democratic oversight practices with those of EU and NATO member States. Overall, a positive trend towards the entrenchment of democratic control over the sector continued.

XI. European Union military mission in Bosnia and Herzegovina

69. EUFOR continued to provide a military force of some 2,000 personnel and retained the capacity to bring in over-the-horizon reserves. Its headquarters and peace-enforcement capability remained based in the Sarajevo area, but liaison and observation teams were present throughout the country. The presence of EUFOR in the field provided the crucial reassurance that citizens in general still feel to be necessary. Given the difficult political environment, it remained important that EUFOR retained the capacity to deploy troops throughout Bosnia and Herzegovina at short notice. EUFOR also continued to work closely with the Armed Forces of Bosnia and Herzegovina, especially in terms of handing over additional military functions to the domestic authorities.

70. EUFOR still plays a key role in contributing to a safe and secure environment that, in turn, helps the Office of the High Representative and other international organizations to fulfil their respective mandates. As such, EUFOR continued to

serve as an important factor of stability in the country at a time when the political situation was deteriorating. While the European Union has been planning for a non-executive, capacity-building and training mission of some 200 military personnel, an extension of the current executive mandate and configuration of EUFOR will remain important in the near term, at the very least until three months after transition from the Office of the High Representative to the European Union Special Representative takes place. For this reason, an extension of the executive mandate of the EUFOR configuration is important.

71. I have, in my capacity as European Union Special Representative, continued to offer political advice and support to the EUFOR mission.

XII. Return of refugees and displaced persons

72. There are still 120,000 persons registered as internally displaced, more than 2,000 of whom live in squalid collective centres. Despite this, political actors have once again politicized the issue of refugee return and the full implementation of Annex VII of the Peace Agreement. On 6 July 2009, Serb delegates in the Bosnia and Herzegovina House of Peoples rejected the revised Strategy for Implementation of Annex VII of the Peace Agreement, despite its earlier approval by the Council of Ministers and House of Representatives. The draft strategy is back with the Ministry for Human Rights and Refugees for revision. My Office considers that the draft strategy provides a solid basis for resolving the problems of displacement in Bosnia and Herzegovina by promoting sustainable return, addressing the needs of those still living in collective centres, and by looking into the needs of those who cannot or will not return to their homes of origin. The strategy needs to be adopted post-haste. The Office of the United Nations High Commissioner for Refugees remains the lead international agency in this sector and my Office will continue to support its efforts to ensure full implementation of Annex VII.

XIII. Mostar

73. More than a year after the elections, a new mayor of Mostar has yet to be elected and the parties have failed to even negotiate seriously. In July, with the city gripped by widespread strikes and work stoppages, I had no choice but to enact a temporary financing decision. The decision lapsed on 1 October. Owing to a lack of action by the parties, Mostar still does not have a mayor or a budget. In this situation, I had no other option but to impose a decision on 30 October, compelling the Mostar City Council to hold a Council session within 30 days to elect a mayor by secret ballot, which is already provided for in the city's statute.

Football violence triggers rise in ethnic tensions

74. On 4 October a fan of the visiting team from Sarajevo — Vedran Puljic — was shot dead in Siroki Brijeg in Herzegovina. Sixty-four civilians and 29 police officers were also injured. The incident quickly took on ethnic overtones, as Croat and Bosniak political actors made claim and counterclaim about who was responsible. On 15 October a number of arrests were made in connection with the murder. Several police officers have also been detained and questioned.

XIV. Brcko District

75. The adoption of Amendment I to the Constitution of Bosnia and Herzegovina, which ensures Brcko District's access to the State Constitutional Court, and the promising start of the District's new all-party coalition government, enabled the Brcko Supervisor to inform the Peace Implementation Council Steering Board in June that the District's institutions were functioning effectively and apparently permanently and that he might, as a consequence, be in a position by autumn to recommend the closure of the supervisory regime, provided that the entities and State fulfilled their remaining obligations under the Arbitral Awards and that the Arbitral Tribunal concurred.

76. The Steering Board unanimously endorsed the Supervisor's plan, but regretted that the entities and State had thus far failed to resolve the remaining issues specified in its communiqué of March 2009 regarding Brcko District. Those issues — the settlement of mutual debts with the entities, the possibility for District residents to choose, declare or change their entity citizenship, the District's legal inclusion in the regulatory framework of the Bosnia and Herzegovina electricity market, and its right to share in the apportionment of ex-Yugoslav succession funds — derive either directly from the 1999 Final Arbitral Award or from formal agreements signed with the entities in autumn 2000. The Peace Implementation Council Steering Board therefore called upon the entity and State authorities to settle these long-outstanding matters no later than 15 September 2009 in anticipation of being in a position in November to decide on terminating supervision.

77. Given the highly technical nature of these issues, my Office and the Supervisor's staff sought to assist the domestic authorities by preparing draft amendments to the relevant State, entity and District legislation, which I duly forwarded to the Chairman of the Council of Ministers, the entity premiers, and the Brcko Mayor in July, asking for their comments and, as I hoped, their subsequent introduction of the amendments into their respective legislative bodies. The Supervisor and I would have been prepared to accept an extension of the 15 September deadline if there had been any serious effort to resolve these matters by then. But in the absence of such efforts, and after nine years of non-action by relevant local authorities, I resorted to my executive powers to enact the requisite legislation on 18 September.

78. At this point the only requirement for the State and entities was to publish the decisions in their respective official gazettes, so putting them into effect. That would still have enabled the Supervisor (a) to notify the Arbitral Tribunal that the entities were now compliant with their obligations under the Final Award, so permitting the Tribunal to terminate its own jurisdiction and (b) to recommend to the Peace Implementation Council that it close down the supervisory regime by year's end. Although the State, the Federation, and Brcko District duly complied with my decisions, the Republika Srpska Government and Assembly publicly rejected these decisions with the argument that the High Representative has no authority under the General Framework Agreement for Peace to impose legislation. Moreover, the Republika Srpska plan to dismantle Elektroprijenos mentioned in paragraph 52 above, which would involve the Republika Srpska unlawfully asserting authority over electricity transmission in Brcko District, is a serious violation of the Final Award, which prohibits either entity from exercising any authority in the territory of the District.

79. As a consequence of the Republika Srpska refusing to meet its remaining obligations under the Final Award and attempting to assert authority in Brcko District, the Brcko District Supervisor considers to be at present in no position to recommend the closure of his office, and has now suspended all preparations to do so, and is reserving the right to refer the serious non-compliance of the Republika Srpska to the Arbitral Tribunal.

XV. Bosnia and Herzegovina and the region

80. Relations between Bosnia and Herzegovina and its immediate neighbours, Croatia, Montenegro and Serbia, have remained relatively stable. However, the Prime Minister of the Republika Srpska, Milorad Dodik, has continued to engage in occasional polemics with the President of Croatia, Stipe Mesic. For their part, Bosnia and Herzegovina Presidency Chairman Zeljko Komsic and member Haris Silajdzic appear to relish taking issue with statements or actions by the President of Serbia, Boris Tadic, though the latter has been consistent in expressing public support to the sovereignty, territorial integrity and European perspective of Bosnia and Herzegovina. The two Presidency members, other non-Serb politicians and the Federation-based media often complain also about other manifestations of the Republika Srpska's Dayton-ordained special parallel relations with Serbia.

81. Such arguments — and small, unresolved border issues — do not, however, alter the fact that Croatia and Serbia remain the most important trading partners of Bosnia and Herzegovina. The potential threat to that trade — and to Bosnia and Herzegovina's obligations under the Central European Free Trade Agreement — represented by the Parliamentary Assembly's adoption of protectionist legislation in June — was averted late in September when the Constitutional Court ruled that legislation to be unconstitutional. Meanwhile, the dispute with Croatia over its construction of a bridge from the Dalmatian mainland to the Peljesac peninsula that could imperil Bosnia and Herzegovina's access to the sea was put on hold when Zagreb was forced, for fiscal reasons, to suspend construction during the summer.

82. As noted in paragraph 37 above, the most serious blow to good relations with Serbia was the conviction by a court in Belgrade late in September of Ilija Jurisic, a former Tuzla municipal leader sentenced to 12 years' imprisonment for his part in an attack in May 1992 on a Yugoslav People's Army column withdrawing from the city. The case highlights the continuing disarray among former Yugoslav republics regarding their respective jurisdictions in the prosecution of war crimes cases.

XVI. European Union Police Mission

83. The European Union Police Mission, working in coordination with my staff in the Office of the High Representative and as European Union Special Representative, has continued to support police reform, in particular, by promoting the implementation of the new legislation, encouraging the harmonization of existing laws, as well as supporting the fight against organized crime and assisting in coordinating the policing aspects of efforts to combat major and organized crime. I have, in my capacity as European Union Special Representative, continued to offer political advice and support to the police mission.

XVII. Non-certification of police officers

84. The Republika Srpska remained the only jurisdiction in Bosnia and Herzegovina that has failed to implement the provisions of the letter of April 2007 from the President of the Security Council on persons denied certification by the International Police Task Force.

XVIII. Media development

85. The reform of the public broadcasting system (PBS) continued to proceed very slowly. Owing to the lack of political support for the creation of a unified system, cooperation among the three public broadcasters is poor. Many elements of the State-level PBS legislation, adopted four years ago, have still not been put into effect. The PBS System Board — which was finally inaugurated on 11 August 2009 — has yet to adopt a statute or register the PBS corporation (responsible for streamlining the activities of the three broadcasters).

86. The Communications Regulatory Agency, responsible for regulating the telecommunications and electronic media sectors, remains in a difficult position as a result of the continuing blockade of appointments both to its council and of its general director. Party-political wrangling and interference have been to the fore, with the result that the Agency has had an acting director for more than two years. In September the Bosnia and Herzegovina House of Representatives rejected the slate of new nominees to the Agency's council. This means that the Council of Ministers will need to prepare and present a new list of candidates while the expired council continues in a caretaker capacity. The delays in these appointments have already had a negative impact on the functioning of the Agency, particularly as a number of decisions prepared by it have been put on hold by the Council of Ministers.

XIX. European Union Special Representative

87. In my capacity as European Union Special Representative, I continued to promote political processes, initiatives and events aimed at broadening and deepening debate on EU issues and fostering active domestic support for the country's integration into the European Union. Together with the European Commission, I held a number of EU agenda coordination meetings with the relevant Bosnia and Herzegovina authorities to assist the European integration efforts of Bosnia and Herzegovina. Targeting parliamentarians, media, civil society and non-governmental organizations, social partners, as well as young people, the second phase of the EU Outreach Programme was completed in summer 2009. Seven sessions of the programme's core component, "The Parliament for Europe" have been held. European Union Special Representative staff have also initiated dialogue with and support for non-governmental organizations and civil society organizations designed to encourage their activities on behalf of EU accession. They have likewise endeavoured to ensure more and better-informed media coverage of EU-related issues and developments. Finally, the reci.ba (have-your-say.bosnia) website has continued to serve as a useful tool for fostering discussion with and among citizens of Bosnia and Herzegovina.

XX. Future of the Office of the High Representative

88. The Peace Implementation Council Steering Board met at the level of political directors once during the reporting period, on 29 and 30 June, to review the situation in Bosnia and Herzegovina. The Steering Board expressed its concern over recent political developments in Bosnia and Herzegovina, not least the adoption of the conclusions on 14 May by the Republika Srpska National Assembly.[5] The Steering Board also expressed its concern and disappointment with the lack of progress achieved on the "5 plus 2" agenda for transition from the Office of the High Representative to the European Union Special Representative since its previous meeting in March 2009. It set out in precise terms what remained to be done. The Steering Board made clear that, until the domestic authorities deliver fully on this agenda, the Office of the High Representative will remain in place to exercise its mandate under the General Framework Agreement for Peace, ensuring full respect for the Peace Agreement. The next Peace Implementation Council meeting will be held on 18 and 19 November.

XXI. Reporting schedule

89. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my second regular report. Should the Secretary-General or any Security Council member require information at any other time, I should be pleased to provide an additional written update.

[5] The delegation of the Russian Federation did not join with the rest of the Steering Board on this paragraph of the Steering Board communiqué.